



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,985	12/11/2001	Jung-Chih Chiao	A-68677/MSS	1451

7590

07/15/2003

Maria S Swiatek
Flehr Hohbach Test
Albritton & Herbert
Four Embarcadero Center Suite 3400
San Francisco, CA 94111-4187

EXAMINER

BEN, LOHA

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,985

Applicant(s)

CHIAO

Examiner

LOHA BEN

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 11, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 7, 13, and 19-21 is/are allowed.
- 6) ☒ Claim(s) 2-6, 8-12, and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____ Loha Ben
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152) Primary Examiner
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 6) ☐ Other:

Art Unit: 2873

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-6, 8-12, and 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 2 recites the limitation "the insulating layer" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 4 recites the limitation "the insulating layer" in lines 3, 5, 6, and 8 and 9. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 5 recites the limitation "the insulating layer" in lines 4 and 13. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 5 recites the limitation "the locking latch assembly" in lines 11, 16, and 18. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 5 recites the limitation "the locking latch" in lines 12, 15, and 20. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 8 recites the limitation "the insulating layer" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2873

9. Claim 10 recites the limitation "the insulating layer" in lines 3, 5, 6, and 8 and 9. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 11 recites the limitation "the insulating layer" in lines 5 and 15. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 14 recites the limitation "the insulating layer" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 16 recites the limitation "the insulating layer" in lines 3, 6, and 8 and 9. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 17 recites the limitation "the insulating layer" in lines 5 and 15. There is insufficient antecedent basis for this limitation in the claim.

The remaining claims which depend from respective rejected base claims inherit the indefiniteness thereof.

Suggestion on minor informalities

In the Specification

The PCT Patent Applications Ser. Nos. Should now be provided on pages 1 and 42.

Page 4: line 12, "a" should be -- an --.

Page 31: line 21, "eac" should be -- each --.

In the Claims

In claims 1, 7, and 19: line 1, "a" should be -- an --.

Art Unit: 2873

In claim 13: line 5, “a” should be -- an --; and line 21 (second line from the bottom of the claim), “interacting” should be -- interact --.

In claim 21: line 5, “a” should be -- an --.

In claims 6, 9, 12, 15, and 18: line 2, “monolithically” should be -- monolithically --.

Allowable Subject Matter

Claims 1, 7, 13, and 19-21 are allowed.

Claims 2-6, 8-12, and 14-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The allowable subject matter of claims 19-21 centers on the moveability of the actuator mechanism, the moveable stage, and the element structure on the MEMS chip, wherein the element structure comprises an optical element, and wherein the three moveable mentioned elements are connected to one another in the respective order.

For independent claims 1, 7, and 13, the allowable subject matter rests with the lying and upright positions of the element structure associated with the optical performance of the device claimed.

Communication

Art Unit: 2873

Any inquiry concerning this communication should be directed to Loha Ben at telephone number (703)308-4820.

The examiner's work schedule is from Monday to Saturday, and generally between 12:00 noon and 8:00 p.m.

A receptionist can be reached at (703)308-0956 concerning matter of a general nature.

July 8, 2002

A handwritten signature in black ink, appearing to read 'Loha Ben', with a stylized, cursive script.

Loha Ben
Primary Examiner